



# STATE OF NEW YORK DEPARTMENT OF HEALTH

433 River Street, Suite 303

Troy, New York 12180-2299

Barbara A. DeBuono, M.D., M.P.H.  
*Commissioner*

Dennis P. Whalen  
*Executive Deputy Commissioner*

October 13, 1997

## CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Jude Brearton Mulvey, Esq.  
NYS Department of Health  
Corning Tower Room 2503  
Empire State Plaza  
Albany, New York 12237

Frederick Stern, Esq.  
Arnold Marshall, Esq.  
50 E. 42nd Street  
New York, New York

Keith Howard, R.P.A.  
1304 33rd Avenue  
Long Island City, New York 11106

### **RE: In the Matter of Keith Howard, R.P.A.**

Dear Parties:

Enclosed please find the Determination and Order (No. 97-246) of the Hearing Committee in the above referenced matter. This Determination and Order shall be deemed effective upon the receipt **or** seven (7) days after mailing by certified mail as per the provisions of §230, subdivision 10, paragraph (h) of the New York State Public Health Law.

Five days after receipt of this Order, you will be required to deliver to the Board of Professional Medical Conduct your license to practice medicine if said license has been revoked, annulled, suspended or surrendered, together with the registration certificate. Delivery shall be by either **certified mail or in person** to:

Office of Professional Medical Conduct  
New York State Department of Health  
Hedley Park Place  
433 River Street - Fourth Floor  
Troy, New York 12180

If your license or registration certificate is lost, misplaced or its whereabouts is otherwise unknown, you shall submit an affidavit to that effect. If subsequently you locate the requested items, they must then be delivered to the Office of Professional Medical Conduct in the manner noted above.

As prescribed by the New York State Public Health Law §230, subdivision 10, paragraph (i), and §230-c subdivisions 1 through 5, (McKinney Supp. 1992), "the determination of a committee on professional medical conduct may be reviewed by the Administrative Review Board for professional medical conduct." Either the licensee or the Department may seek a review of a committee determination.

Request for review of the Committee's determination by the Administrative Review Board stays penalties **other than suspension or revocation** until final determination by that Board. Summary orders are not stayed by Administrative Review Board reviews.

All notices of review must be served, by **certified mail**, upon the Administrative Review Board **and** the adverse party within fourteen (14) days of service and receipt of the enclosed Determination and Order.

The notice of review served on the Administrative Review Board should be forwarded to:

James F. Horan, Esq., Administrative Law Judge  
New York State Department of Health  
Bureau of Adjudication  
Hedley Park Place  
433 River Street, Fifth Floor  
Troy, New York 12180

The parties shall have 30 days from the notice of appeal in which to file their briefs to the Administrative Review Board. Six copies of all papers must also be sent to the attention of Mr. Horan at the above address and one copy to the other party. The stipulated record in this matter shall consist of the official hearing transcript(s) and all documents in evidence.

Parties will be notified by mail of the Administrative Review Board's  
Determination and Order.

Sincerely,

A handwritten signature in black ink that reads "Tyrone T. Butler" followed by a vertical line and the initials "nm".

Tyrone T. Butler, Director  
Bureau of Adjudication

TTB:nm  
Enclosure

**STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT**

**COPY**

**IN THE MATTER  
OF  
KEITH HOWARD, R.P.A.**

**DETERMINATION  
AND  
ORDER**

BPMC-97-246

**MICHAEL A. GONZALEZ, R.P.A.** Chairperson, **STEVEN LAPIDUS, M.D.**, and **DAVID T. LYON, M.D.**, duly designated members of the State Board for Professional Medical Conduct, appointed by the Commissioner of Health of the State of New York pursuant to Section 230(1) of the Public Health Law, served as the Hearing Committee in this matter pursuant to Sections 230(1)(e) and 230(12) of the Public Health Law. Administrative Law Judge, **CHRISTINE C. TRASKOS, ESQ.**, served as Administrative Officer for the Hearing Committee. The Department of Health appeared by **HENRY M. GREENBERG, GENERAL COUNSEL**, **JUDE BREARTON MULVEY, ESQ.**, Assistant Counsel, of Counsel. The Respondent appeared by **FREDERICK C. STERN, ESQ.** and **ARNOLD MARSHALL, ESQ.** Evidence was received, witnesses sworn and heard, and transcripts of these proceedings were made.

After consideration of the entire record, the Hearing Committee submits this Determination and Order.

**STATEMENT OF CHARGES**

The accompanying Statement of Charges allege seven (7) specifications of professional misconduct, including allegations of professional misconduct within the meaning of New York Education Law §6530(1), §6530(2), §6530(9)(a)(iii), §6530 (20) and §6530(21) . The charges are more specifically set forth in the Statement of Charges, a copy of which is attached hereto and made a part of this Determination and Order.

**SUMMARY OF PROCEEDINGS**

Notice of Hearing Date:	June 11, 1997
Pre-Hearing Conference:	September 8, 1997
Hearing Date:	September 8, 1997
Deliberation Date:	September 16, 1997
Place of Hearing:	NYS Department of Health Hedley Park Place- 5th Fl. 433 River Street Troy, New York 12180

**WITNESSES**

For the Petitioner:

Christopher Morley

For the Respondent:

Keith Howard, R.P.A.

Donald Arnez Jones, M.D. M.P.H

**FINDINGS OF FACT**

Numbers in parenthesis refer to transcript pages or exhibits, and they denote evidence that the Hearing Committee found persuasive in determining a particular finding. Conflicting evidence, if any, was considered and rejected in favor of the evidence cited.

**GENERAL FINDINGS**

1. Respondent was licensed to practice medicine as a physician assistant in the State of New York on September 1, 1978 by issuance of registration number 000992 by the New York State Education Department. (Ex. 3)
2. Respondent, on or about July 1978, filed an application for registration as a Physician's Assistant with the New York State Education Department. (Ex. 3)
  - a. Respondent answered "No" to the application question "Have you ever been convicted of a crime (felony or misdemeanor)?" when, in fact, Respondent was convicted of Criminal Possession of Stolen Property in the Second Degree, a felony, on October 2, 1972 in New York State Supreme Court, Queens County, Criminal term, and Respondent knew such facts. (Ex. 3)

- b. Respondent answered "No" to the application question "Have you ever been convicted of a crime (felony or misdemeanor)?" when, in fact, Respondent was convicted of Grand Larceny in the Third Degree, a felony on January 15, 1972 in New York State Supreme Court, Queens County, Criminal Term, and Respondent knew such facts. (Ex. 3 )
3. Respondent, on or about June, 1984, filed an application for employment with Woodhull Medical and Mental Health Center, Brooklyn, New York. (Ex.5 )
- a. Respondent answered "No" to the application question "Were you ever convicted of a violation of any law or ordinance in this state or elsewhere?" when in fact, Respondent was convicted of Criminal Possession of Stolen Property in the Second Degree, a felony, on October 2, 1972 in New York State Supreme Court, Queens County Criminal Term, and Respondent knew such facts. (Ex.6 )
- b. Respondent answered "No" to the application question "Were you ever convicted of a violation of any law or ordinance in this state or elsewhere?" when, in fact, Respondent was convicted of Grand Larceny in the Third Degree, a felony, on January 15, 1972 in New York State Supreme Court, Queens County, Criminal Term, and Respondent knew such facts. (Ex. 6 )
4. Respondent , on or about September 12, 1990, in the case of State v. Keith Howard ( N.J. Superior Court, Criminal Term, Bergen County) was convicted of the crimes of Possession of a Weapon for unlawful Purposes in violation of N.J. Code of Criminal Justice 2C:39-4(a) [possession of any firearm with a purpose to use it against another person] and Unlawful Possession of a Weapon in violation of N.J. Code of Criminal Justice 2C-39-5(b) [knowing possession of any handgun without a permit] Respondent was sentenced to a term of incarceration of seven years on the charge of Unlawful Possession of a Weapon for

Unlawful Purposes and a four year concurrent sentence upon the additional weapons charge.

(Ex.4 )

**CONCLUSIONS OF LAW**

The following conclusions were made pursuant to the Findings of Fact listed above. All conclusions resulted from a unanimous vote of the Hearing Committee unless notes otherwise.

The Hearing Committee concluded that the following Factual Allegations should be sustained. The citations in parenthesis refer to the Findings of Fact which support each Factual Allegation:

- Paragraph 1: (1)
- Paragraph 1a: ( 2 and 2(a))
- Paragraph 1b: ( 2 and 2(b))
- Paragraph 2: ( 3)
- Paragraph 2a: (3 and 3(a))
- Paragraph 2b: (3and 3(b))
- Paragraph 3: ( 4 )

The Hearing Committee further concluded that the following Specifications should be sustained. The citations in parenthesis refer to the Factual Allegations which support each specification:

**OBTAINING THE LICENSE FRAUDULENTLY**  
**IN VIOLATION OF §6530(1) OF THE N.Y. EDUCATION LAW**

First Specification: (Paragraphs 1 and 1a)

(Paragraphs 1 and 1b)

**PRACTICING THE PROFESSION FRAUDULENTLY**  
**IN VIOLATION OF §6530(2) OF THE N.Y. EDUCATION LAW**

Second Specification: (Paragraph 1 through 1b)

Third Specification: (Paragraph 2 through 2b)

**CRIMINAL CONVICTION**  
**IN VIOLATION OF §6530(9) (a) (iii) OF THE N.Y. EDUCATION LAW**

Fourth Specification: (Paragraphs 3 and 4)

**MORAL UNFITNESS**

NOT SUSTAINED

**MAKING OR FILING FALSE REPORT**  
**IN VIOLATION OF §6530(21) OF THE N.Y. EDUCATION LAW**

Sixth Specification: (Paragraphs 1 through 1b)

Seventh Specification: (Paragraphs 2 through 2b)

## DISCUSSION

Respondent is charged with seven (7) specifications alleging professional misconduct within the meaning of Education Law Section 6530. The Hearing Committee unanimously concluded, by a preponderance of the evidence, that six (6) of the specifications of professional misconduct should be sustained. The rationale for the Committee's conclusions regarding each specification of misconduct is set forth below.

At the outset of deliberations, the Hearing Committee made a determination as to the credibility of the witnesses presented by the parties. Petitioner offered the testimony of Christopher Morley, an investigator from the Office of Professional Medical Conduct. The Hearing Committee found Mr. Morley to be a credible witness with respect to stating the facts of his interview with Respondent.

The Hearing Committee found Respondent to be forthright and confident in his testimony. He was candid and personable in answering questions. He offered a good recollection of the facts without hedging or changing his story. More importantly, he tried to explain, not excuse his behavior. Respondent also appeared knowledgeable on medical issues. The Hearing Committee found Respondent to be very credible and thus gave his testimony great weight.

Respondent also offered the testimony of Donald Arnez Jones, M.D., M.P.H., from Arlington, Virginia. Dr. Jones is a health consultant and personal friend of Respondent who has known him since medical school in Santo Domingo. (T. 130-131) The Hearing Committee found Dr. Jones to be a very articulate and knowledgeable witness who offered insight into Respondent's character and his life circumstances of the past several years. The Hearing Committee found that Dr. Jones presented a balanced testimony, as he did not defend Respondent's actions. Therefore, the Hearing Committee found Dr. Jones to be a very credible witness and they gave his testimony great weight.

### **OBTAINING THE LICENSE FRAUDULENTLY**

§ 6530(1) of the Education Law defines professional misconduct as obtaining the license fraudulently. " The Hearing Committee finds that the evidence clearly indicates that Respondent lied on his application for registration as a physician's assistant to the New York State Department of Education in 1978 as well as a 1984 job application regarding his 1972 conviction. As a result, the Hearing Committee sustains the First Specification.

### **PRACTICING THE PROFESSION FRAUDULENTLY**

§6530 (2) of the Education Law defines professional misconduct in part as "Practicing the profession fraudulently". The Hearing Committee finds that Respondent practiced the profession fraudulently because he failed to disclose his 1972 criminal conviction on his 1978 license registration application as well as a 1984 job application. Therefore, the Hearing Committee sustains the Second and Third Specifications.

### **CRIMINAL CONVICTION**

§6530(9)(iii) of the Education Law defines professional misconduct as "Being convicted of committing an act constituting a crime under the law of another jurisdiction and which, if committed within this state, would have constituted a crime under the laws of New York state" The Hearing Committee finds that the evidence shows that in 1990, Respondent was indeed convicted by the New Jersey Courts of possession of a handgun for the purpose to use against another and unlawful possession of a handgun without a permit. Therefore, the Fourth Specification is sustained.

### **MORAL UNFITNESS**

§6530 (20) of the Education Law defines professional misconduct as conduct which "evidences moral unfitness" to practice the profession. The Hearing Committee finds that Respondent's conduct does not meet the definition of moral unfitness because the acts in and of themselves do not rise to the level of moral unfitness to practice as a physician's assistant, particularly when viewed in the light of mitigating circumstances. Therefore, the Fifth Specification is not sustained.

### **MAKING OR FILING FALSE REPORT**

§6530 (21) of the Education Law defines professional misconduct as "Willfully making or filing a false report ...." The Hearing Committee finds that Respondent's failure to disclose his 1972 conviction on his 1978 license registration application and a 1984 employment application constitutes a violation of the aforementioned statute. Therefore, the Sixth and Seventh Specification are sustained.

### **DETERMINATION AS TO PENALTY**

The Hearing Committee, pursuant to the Findings of Fact and Conclusions of Law set forth above, determined by a unanimous vote that Respondent's physician assistant's license in New York State should be suspended for a period of six (6) months. The suspension shall be stayed in its entirety and no probation is imposed. This determination was reached upon due consideration of the full spectrum of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.

At the hearing Respondent testified that he grew up in Flushing, Queens in a middle class black family. (T. 21) He stated that in 1964 he started high school where he was an honor student

and athlete, who often had part-time jobs. (T. 24-25, 27) Respondent testified that he had no problems with the law until he was around 19 or 20 years old. (T. 27) Respondent testified about his arrest when he was a passenger in a car that became involved in a car chase with the police. (T. 27- 30) He further testified about his subsequent court appearances and how the matter was ultimately resolved in a plea bargain in an attempt to "wipe the entire slate clean." (T. 30-35) Respondent was incarcerated in Sing-Sing and then moved to Auburn. (T. 35-36 )

After his incarceration, Respondent testified that he attended Long Island University in an ex inmate program. (T. 37) He stated that he sought employment at McDonald's, A & S and the telephone company, but was told, "You have a felony.....We don't want your type." (T.38) Eventually Social Services got him a job with Youth Services where he provided counseling and placements for street gangs. (T. 38-39) Respondent testified that he applied for the physician assistant program at Long Island University. (T. 39) The program director advised him that he "Deserved a second chance," but warned him about the roadblocks he might face in getting licensed. (T. 39-40) Respondent stated that he attended the physician assistant program from 1974 to 1978. (T. 40) He got his first physician assistant position at Beth Israel Hospital at a clinic in Harlem. (T.41) Respondent stated that he began to feel back on track and was ultimately encouraged by others to go to medical school. (T.43)

Respondent testified that he attended medical school in the Dominican Republic. (T. 46-48) While there, he remarried and had two children. (T. 48) He also had his daughter, Asia, from his first marriage, living with him during medical school. (T.136-137 ) After medical school, Respondent returned to the United States and intended to apply for a residency. At that same time, his mother had a reoccurrence of breast cancer and he also had his wife and children to support. Due to these circumstances, Respondent testified that he decided to apply to Woodhull Medical and Mental Health Center in Brooklyn for a physician assistant position. (T. 47-48) He stated that he answered "No " regarding criminal convictions on the application because he believed that regardless of his qualifications he would not be hired because of the conviction. (T. 47) Respondent

testified that he was accepted into a residency program at Harlem Hospital in 1987 and remained there for 3 years. (T. 49) He further stated that during that time, he and his wife separated and that she moved back to the Dominican Republic with the two youngest children. (T. 49)

Respondent also testified about the circumstances surrounding his 1990 criminal conviction in New Jersey. He stated that he moved in with Karen Friels, in a house in Engelwood, New Jersey as a means of saving expenses and providing child care. (T. 50) He further stated that although the relationship at one point became "more intimate", he moved out when "the relationship really started to go sour." (T. 52) After that it "became like a harassment between us." (T. 53) At one point, Respondent stated that he wanted to end the bickering so he went to Karen's house to talk. (T. 56) An argument ensued which resulted in Respondent's arrest. (T. 57-58)

Respondent further testified that while awaiting trial, he was in the process of interviewing for a new job at Howard University and dealing with the sudden death of his wife in the Dominican Republic and the return of his 2 younger children. (T. 55, 59-62) Respondent was convicted of the crimes of possession of a weapon for unlawful purposes and was incarcerated for 3 years. (Ex. 4)

Upon his release, Respondent stated that he found a job within 6 months at the Four Winds Psychiatric Hospital in Katonah, NY. (T. 63) He stated that he is presently employed at St. John's Hospital in Far Rockaway in the Department of Medicine and that he has been there for nearly 3 years. (T. 65) Respondent further testified that he married Margie Tangon in 1994 and that they have a 2 year old son, Sebastian. (T. 20, 64)

The issue before the Hearing Committee involves the character of the Respondent for honesty and its impact upon his ability to practice medicine as a physician assistant. The Hearing Committee finds Respondent's explanation of his 1972 criminal experience of how he got involved with the stolen car and the eventual plea bargain to be very credible and demonstrated his appreciation of the gravity of the events. The Hearing Committee also finds Respondent's reasons for lying about the 1972 criminal conviction on job applications was due to his history of job rejections when he was truthful. The Hearing Committee further finds that Respondent's criminal conviction in 1990 involving the unlawful use of a weapon resulted from a personal relationship that

went sour and bad judgment on part of the Respondent. The Hearing Committee finds, however, that the testimony of Dr. Jones corroborates the circumstances of Respondent's life at the time that do not excuse, but may have contributed to Respondent's poor judgment. The Hearing Committee considers issues as child care problems, job burnout, and death of a spouse to be legitimate life stressors.

The Hearing Committee believes that Respondent's testimony before them demonstrates his sincere recognition of his past actions and his contrition for them. Therefore, the Hearing Committee concurs with Respondent's request that these acts be weighed against his record as a clinician for the past 20 years. The Hearing Committee finds that Respondent demonstrated his commitment to serving the needs of the community shortly after his release from his first imprisonment by counselling street gangs. Respondent further demonstrated perseverance in pursuing the physician assistant education despite warnings about the roadblocks to obtaining a license. The Hearing Committee finds that Respondent was equally steadfast in his completion of medical school and his continued efforts to become a licensed physician. The Hearing Committee further notes Respondent's resilience in rebounding as a health care provider after imprisonment and various other personal setbacks. The Hearing Committee firmly believes that it is Respondent's demonstration of commitment, seriousness of purpose and resilience that speaks to the great strength of his character. More significantly, it was Respondent's honest disclosure to the Education Department in exposing his past lies that triggered the initiation of these misconduct charges against him. To a person, the Hearing Committee is convinced as to Respondent's honesty and integrity today.

Petitioner seeks revocation of Respondent's license and a civil penalty of \$20,000. The Hearing Committee rejects these penalties as too harsh. Nowhere in the record does the Hearing Committee find evidence that Respondent's misconduct related to his ability to practice his profession or to his skill as a physician assistant. In fact, the Hearing Committee finds evidence to the contrary. Respondent's performance evaluations from St. John's Episcopal Hospital, South Shore state that he often or consistently exceeds the standards of his work performance and that he

performs his duties as a supervising physician assistant in an "exemplary manner." (Ex. A and B) In addition, Respondent offers an affidavit from Ronald Brenner, M.D., board certified in psychiatry and chairman of the Department of Psychiatry at St. John's. In the affidavit, Dr. Brenner states that Respondent is "exceptionally well trained and qualified to be a physician assistant." Dr. Brenner further states that Respondent's "inability to continue as a physicians assistant would be a great loss to the community and deprive the staff of a dedicated and skilled provider of health services."

(Ex. D)

The Hearing Committee notes that Respondent has already paid his debt to society for his past criminal acts. There is no proof of patient harm, incompetence or greedy motives by Respondent. The Hearing Committee firmly believes that if Respondent's license were to be revoked it would not serve the best interests of the communities where Respondent is employed. The Hearing Committee further feels that revocation would be a severe personal travesty for Respondent. Therefore, the Hearing Committee believes that a six(6) month stayed suspension is the appropriate sanction under the totality of the circumstances.

**ORDER**

Based upon the foregoing, **IT IS HEREBY ORDERED THAT:**

1. The First, Second, Third Fourth, Sixth and Seventh Specifications are **SUSTAINED.**
2. The Fifth Specification is **NOT SUSTAINED.**
3. Respondent's license to practice as a physician assistant in New York State is **SUSPENDED** for a period of **SIX (6) MONTHS.**
4. The Six Month Suspension is **STAYED IN ITS ENTIRERTY.**
5. This Order shall be effective upon service on the Respondent or the Respondent's attorney by personal service or by certified or registered mail.

**DATED: Elmira, New York**

Oct 7 1997

  
**MICHAEL A. GONZALEZ, R.P.A.**  
(Chair)

**STEVEN LAPIDUS, M.D.**  
**DAVID T. LYON, M.D.**

*(Handwritten mark)*

**TO:** Jude Brearton Mulvey, Esq.  
NYS Department of Health  
Corning Tower-Room 2503  
Empire State Plaza  
Albany, New York 12237

Frederick Stern, Esq. and Arnold Marshall, Esq.  
50 E. 42nd Street  
New York, NY

Keith Howard, R.P.A.  
1304 33rd Avenue  
Long Island City, New York 11106

STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : NOTICE  
OF : OF  
KEITH HOWARD, P.A. : HEARING

-----X

TO: KEITH HOWARD, P.A.  
59-11 39th Avenue  
Woodside, New York 11377

PLEASE TAKE NOTICE:

A hearing will be held pursuant to the provisions of N.Y. Pub. Health Law Section 230 and N.Y. State Admin. Proc. Act Sections 301-307 and 401. The hearing will be conducted before a committee on professional conduct of the State Board for Professional Medical Conduct on the 10th day of July, 1997, at 10:00 in the forenoon of that day at the Office of Professional Medical Conduct, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York and at such other adjourned dates, times and places as the committee may direct.

At the hearing, evidence will be received concerning the allegations set forth in the Statement of Charges, which is attached. A stenographic record of the hearing will be made and the witnesses at the hearing will be sworn and examined. You shall appear in person at the hearing and may be represented by counsel. You have the right to produce witnesses and evidence on your behalf, to issue or have subpoenas issued on your behalf in

order to require the production of witnesses and documents and you may cross-examine witnesses and examine evidence produced against you. A summary of the Department of Health Hearing Rules is enclosed.

The hearing will proceed whether or not you appear at the hearing. Please note that requests for adjournments must be made in writing and by telephone to the Bureau of Adjudication, Hedley Park Place, 5th Floor, 433 River Street, Troy, New York 12180, (518-402-0748), upon notice to the attorney for the Department of Health whose name appears below, and at least five days prior to the scheduled hearing date. Adjournment requests are not routinely granted as scheduled dates are considered dates certain. Claims of court engagement will require detailed Affidavits of Actual Engagement. Claims of illness will require medical documentation.

Pursuant to the provisions of N.Y. Pub. Health Law Section 230(10)(c) you shall file a written answer to each of the Charges and Allegations in the Statement of Charges no later than ten days prior to the date of the hearing. Any Charge and Allegation not so answered shall be deemed admitted. You may wish to seek the advice of counsel prior to filing such answer. The answer shall be filed with the Bureau of Adjudication, at the address indicated above, and a copy shall be forwarded to the attorney for the Department of Health whose name appears below. Pursuant to Section 301(5) of the State Administrative Procedure Act, the Department, upon reasonable notice, will provide at no charge a qualified interpreter of the deaf to interpret the proceedings to, and the testimony of, any deaf person.

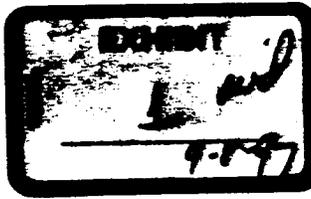
At the conclusion of the hearing, the committee shall make findings of fact, conclusions concerning the charges sustained or dismissed, and, in the event any of the charges are sustained, a determination of the penalty to be imposed or appropriate action to be taken. Such determination may be reviewed by the administrative review board for professional medical conduct.

THESE PROCEEDINGS MAY RESULT IN A DETERMINATION THAT YOUR LICENSE TO PRACTICE MEDICINE IN NEW YORK STATE BE REVOKED OR SUSPENDED, AND/OR THAT YOU BE FINED OR SUBJECT TO THE OTHER SANCTIONS SET OUT IN NEW YORK PUBLIC HEALTH LAW SECTION 230-a. YOU ARE URGED TO OBTAIN AN ATTORNEY TO REPRESENT YOU IN THIS MATTER.

DATED: Albany, New York  
*June 11*, 1997

  
PETER D. VAN BUREN  
Deputy Counsel

Inquiries should be directed to: JUDE B. MULVEY  
Assistant Counsel  
Division of Legal Affairs  
Bureau of Professional  
Medical Conduct  
Corning Tower Building  
Room 2503  
Empire State Plaza  
Albany, New York 12237-0032  
(518) 473-4282



STATE OF NEW YORK : DEPARTMENT OF HEALTH  
STATE BOARD FOR PROFESSIONAL MEDICAL CONDUCT

-----X

IN THE MATTER : STATEMENT  
OF : OF  
KEITH HOWARD, P.A. : CHARGES

-----X

KEITH HOWARD, P.A., the Respondent, was authorized to practice as a physician's assistant in New York State on September 1, 1978, by the issuance of registration number 000992 by the New York State Education Department.

**FACTUAL ALLEGATIONS**

1. Respondent, on or about July 1978, filed an application for registration as a Physician's Assistant with the New York State Education Department.
  - a. Respondent answered "No" to the application question "Have you ever been convicted of a crime (felony or misdemeanor)?" when, in fact, Respondent was convicted of Criminal Possession of Stolen Property in the Second Degree, a felony, on October 2, 1972 in New York State Supreme Court, Queens County, Criminal Term, and Respondent knew such facts.
  - b. Respondent answered "No" to the application question "Have you ever been convicted of a crime (felony or misdemeanor)?" when, in fact, Respondent was convicted of Grand Larceny in the Third Degree, a felony, on January 15, 1972 in New York State Supreme Court, Queens County, Criminal Term, and Respondent knew such facts.
2. Respondent, on or about June, 1984, filed an

application for employment with Woodhull Medical and Mental Health Center, Brooklyn, New York.

- a. Respondent answered "No" to the application question "Were you ever convicted of a violation of any law or ordinance in this state or elsewhere?" when, in fact, Respondent was convicted of Criminal Possession of Stolen Property in the Second Degree, a felony, on October 2, 1972 in New York State Supreme Court, Queens County, Criminal Term, and Respondent knew such facts.
  - b. Respondent answered "No" to the application question "Were you ever convicted of a violation of any law or ordinance in this state or elsewhere?" when, in fact, Respondent was convicted of Grand Larceny in the Third Degree, a felony, on January 15, 1972 in New York State Supreme Court, Queens County, Criminal Term, and Respondent knew such facts.
3. Respondent, on or about September 12, 1990, in the case of State v. Keith Howard (N.J. Superior Court, Criminal Term, Bergen County) was convicted of the crimes of Possession of a Weapon for Unlawful Purposes in violation of N.J. Code of Criminal Justice 2C:39-4(a) [possession of any firearm with a purpose to use it against another person] and Unlawful Possession of a Weapon in violation of N.J. Code of Criminal Justice 2C-39-5(b) [knowing possession of any handgun without a permit]. Respondent was sentenced to a term of incarceration of seven years on the charge of Unlawful Possession of a Weapon for Unlawful Purposes and a four year concurrent sentence upon the additional weapons charge.

4. Respondent's criminal convictions in New Jersey stated in paragraph 2 would, if committed in New York State, constitute the crime of Criminal Possession of a Weapon in the fourth degree under N.Y. Penal Law §265.01 (1) [possession of any firearm].

FIRST SPECIFICATION

OBTAINING THE LICENSE FRAUDULENTLY

Respondent is charged with professional misconduct under N.Y. Education Law §6530(1) (McKinney Supp. 1997) by reason of having obtained his license fraudulently in that Petitioner charges:

1. The facts contained in paragraphs 1 and 1a, and/or 1 and 1b.

SECOND AND THIRD SPECIFICATIONS

PRACTICING THE PROFESSION FRAUDULENTLY

Respondent is charged with professional misconduct under N.Y. Education Law §6530(2) (McKinney Supp. 1997) by reason of having practiced the profession fraudulently in that Petitioner charges:

2. The facts contained in paragraphs 1 and 1a, and/or 1 and 1b.
3. The facts contained in paragraphs 2 and 2a, and/or 2 and 2b.

FOURTH SPECIFICATION

CRIMINAL CONVICTION

Respondent is charged with professional misconduct under N.Y. Education Law §6530(9)(a)(iii) (McKinney Supp. 1997) by reason of being convicted of committing an act constituting a crime in another jurisdiction which act would, if committed in New York State, constitute a crime under New York State law in that Petitioner charges:

4. The facts contained in paragraphs 3 and/or 4.

FIFTH SPECIFICATION

MORAL UNFITNESS

Respondent is charged with conduct in the practice of medicine which evidences moral unfitness to practice medicine in violation of N.Y. Education Law §6530(20) (McKinney Supp. 1997) in that Petitioner charges:

5. The facts contained in paragraphs 1, 2, 3 and/or 4.

SIXTH AND SEVENTH SPECIFICATIONS

MAKING OR FILING FALSE REPORT

Respondent is charged with professional misconduct under N.Y. Education Law §6530(2) (McKinney Supp. 1997) by reason of

willfully making or filing a false report required by law or by the department of health or education department in that

Petitioner charges:

6. The facts contained in paragraphs 1 and 1a, and/or 1 and 1b.
7. The facts contained in paragraphs 2 and 2a, and/or 2 and 2b.

DATED: *June 11*, 1997  
Albany, New York

*Peter D. Van Buren*  
PETER D. VAN BUREN  
Deputy Counsel  
Bureau of Professional  
Medical Conduct